

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

LeRoy K. Wheeler,)	
)	
Petitioner,)	ORDER
)	
vs.)	
)	
Timothy Schuetzle,)	Case No. 1:09-cv-003
)	
Respondent.)	

The court takes judicial notice of the fact that Respondent Timothy Schuetzle has retired and that Robyn T. Schmalenberger has been appointed as Warden of the North Dakota State Penitentiary in his stead. Accordingly, the court, on its own motion, orders that Warden Robyn T. Schmalenberger be substituted for Timothy Schuetzle and that the caption of this case be amended to hereafter reflect this change.

IT IS SO ORDERED.

Dated this 15th day of June, 2010.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge